BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

GARY N. GORDON Claimant)
VS.))) Docket No. 193,349
TRI-CITY CARPETS Respondent)))
AND	Ì
TRAVELERS INSURANCE COMPANY Insurance Carrier	}

ORDER

Claimant appeals from a Preliminary Order in which Administrative Law Judge James R. Ward denied claimant's application for preliminary benefits.

ISSUES

Claimant's application for review lists as issues on appeal:

- (1) Whether claimant sustained personal injury by accident within the course of his employment.
- (2) Whether claimant was an employee of respondent or an independent contractor.
- (3) Whether Dr. Ebeling should be authorized to perform surgery.
- (4) Whether claimant is entitled to temporary total disability compensation and, if so, for what period.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Order entered by the Administrative Law Judge does not indicate the basis for denial of benefits. In Accordance with K.S.A. 44-534a and 44-551, only certain types of findings are subject to review on appeals from a preliminary order. Specifically, the only findings subject to review are those listed in K.S.A. 44-534a or those which otherwise relate to the jurisdiction of the Administrative Law Judge. The Appeals Board does not

know the basis for the decision in this case and therefore cannot determine whether it has jurisdiction to review the decision. Accordingly, the Appeals Board finds that the claim should be remanded with directions to the Administrative Law Judge to identify the basis for the decision to deny benefits in this case. If either party wishes to appeal after the Administrative Law Judge has identified the basis for the decision, a new application for review should be filed.

WHEREFORE, the Appeals Board finds that the captioned claim should be, and the same is hereby, remanded to the Administrative Law Judge with directions to identify the basis for the decision denying preliminary benefits.

IT IS SO ORDERED.
Dated this day of March, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: George H. Pearson, Topeka, KS John A. Bausch, Topeka, KS James R. Ward, Administrative Law Judge George Gomez, Director